

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 14926 of 2005

Between:

1. Sri Mavuri Venkata Rao S/o.Appalaswamy
D.No.24c-6-31, Woker, Eluru, West Godavari District.
2. Smt.Bommana Laxmi W/o.Chandra Rao
D.No.24c-6-31, Tailor, Eluru, West Godavari District.
3. Smt. Sila Nagaratnam W/o.Pydeyya
D.No.24c-6-31, House Wife,, Eluru, West Godavari District.
4. Smt.Pothula Rothamma W/o.James
D.No.24c-6-31, House Wife,, Eluru, West Godavari District.

..... PETITIONERS

AND

1. The District Collector Eluru, West Godavari District
2. The Commissioner Eluru Municipal Corporation
Eluru, West Godavari Ditrect.
3. The Town Planning Officer Eluru Municipal Corporation Eluru,
West Godavari Dit.
4. The Mandal Revenue Officer Eluru, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying

that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondent authorities in eviction of petitioners from the house bearing Nos. 24c-6-31, 24c-6-31, 24c-6-31 and 24c-6-31 in an extent of 70,70,94 and 76 yards in Sy No.140, situated at Sanjay Gandhi Nagar Colony, Eluru Town and Municipality,. respectively as arbitrary illegal null and void and is against the principles of natural justice and norms of the public policy and violative of the fundamental rights guaranteed under the constitution of India and to set aside the 2nd respondents proceedings Roc No.G1/1091/05 dt.7.7.05 and to issue a consequential proceedings not to demolish the thatched sheds raised by the petitioners till alternative accommodation is provided by the respondent authorities and to pass such other order or orders.

Counsel for the Petitioner:MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondent No.2 & 3: MR.S.NAGESWARA REDDY

Counsel for the Respondent No.1 & 4: G.P. for Revenue.

The Court made the following :

ORDER:

The case of the petitioners is that the wife of the first petitioner is the owner of D. No. 24c-6-31, situated at Sanjay Gandhi Nagar Colony, Eluru Town, and the petitioners have been residing therein. The land belongs to the respondent Corporation and they are residing therein as landless poor for the last 25 to 30 years and the Corporation has assessed the sheds and levied property tax. While so, in the month of December, 2004, the second respondent, tried to evict the residents, but however, they were allowed to reside therein and enjoyment certificates were issued by the 4th respondent on 5.1.2005, but to the utter surprise of the petitioners, the 2nd respondent has issued proceedings dated 7.7.2005, leaving other residents, for eviction on the ground of demolition, on the ground that one Kakarla Jaya filed WP No. 3380 of 2005 alleging that the petitioners are occupying the public road and the proceeding is

purported to be passed under the order of this court. This court while disposing of the writ petition directed the respondents to consider the representation of the petitioner dated 10.12.2004 and to pass appropriate orders in accordance with law.

The petitioners contend that the respondents without considering the representation issued the impugned notice dated 7.7.2005 directing the petitioners to remove the encroachments within three days from the date of receipt thereof.

Prima facie, a reading of the notice does not show that the respondents have considered the representation of the petitioner dated 10.12.2004 and disposed of the same, as ordained by a learned Single Judge of this court in WP No.3380 of 2005 dated 24.2.2005, under garb of which the respondents seem to have issued the impugned notice. Unless then respondents dispose of the representation dated 10.12.2004, filed by the petitioners, as directed by the learned Single Judge of this Court, the impugned notice is illegal and is liable to be set aside and is accordingly set aside. Consequently, the writ petition is allowed. No order as to costs.

Elipe Dharma Rao, J.

July 11, 2005

MAS.

To

1. The District Collector Eluru, West Godavari District
2. The Commissioner Eluru Municipal Corporation
Eluru, West Godavari District.
3. The Town Planning Officer Eluru Municipal Corporation Eluru,
West Godavari District.

4. The Mandal Revenue Officer Eluru, West Godavari District.
5. Two CCs to the Govt. Pleader for Revenue, A.P. High Court Building, Hyderabad.
6. 2 CD copies
7. 1 CC to MR.VENKATESWARA RAO GUDAPATI

*Form-NIC-OGS/WP{**MPL**}*